

Before the
Administrative Hearing Commission
State of Missouri



DIRECTOR OF DEPARTMENT OF
PUBLIC SAFETY

Petitioner,

vs.

JASON M. CONN,

Respondent.

No. 13-0286 PO

ORDER

There is cause to discipline the peace officer license of Jason M. Conn because he committed a criminal offense.

Procedure

On February 15, 2013, the Director of the Department of Public Safety (“the Director”) filed a complaint seeking a finding of cause to discipline the peace officer license of Jason M. Conn. Conn was served with a copy of the complaint, and our notice of complaint and notice of hearing on February 28, 2013. He filed an answer on March 25, 2013. The Director filed an amended complaint on June 7, 2013.

The Director filed a motion for partial summary decision (“the motion”) on June 12, 2013. The motion is accompanied by a statement of uncontroverted material facts, an affidavit

of licensure, and certified copies of criminal records. Pursuant to 1 CSR 15-3.446(6)(A),¹ we may decide a motion for summary decision if a party establishes facts that entitle that party to a favorable decision and no party genuinely disputes such facts. Those facts may be established by stipulation, pleading of the adverse party, or other evidence admissible under the law. 1 CSR 15-3.446(6)(B).

We notified Conn that he could respond to the motion by June 28, 2013, but he did not file a response. By failing to respond to the motion, Conn failed to raise a genuine issue as to the facts the Director established. 1 CSR 15-3.446(6)(B). Therefore, the following findings of fact are undisputed.

Findings of Fact

1. Conn was licensed as a peace officer by the Director in 1996. His license is current and active and was so at all times relevant to this case.

2. On July 14, 2011, Conn got into a fight with a person and slapped her.

3. In connection with this incident, Conn pled guilty on July 26, 2012 in the Circuit Court of Montgomery County, Missouri, to the crime of Peace Disturbance, First Offense, a Class B misdemeanor in violation of § 574.010.²

4. Conn was sentenced to two years' incarceration, but the execution of sentence was suspended in lieu of two years of supervised probation, twenty hours of community service, and costs.

Conclusions of Law

We have jurisdiction of this matter pursuant to § 590.080.2, which provides that the Director may file a complaint with this Commission, and that the Commission shall then

¹ All references to "CSR" are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

² RSMo 2000. Statutory references are to the RSMo Supp. 2012 unless otherwise indicated.

“determine whether the [D]irector has cause for discipline, and...shall issue findings of fact and conclusions of law on the matter.”

The Director is responsible for issuing and disciplining the licenses of Missouri peace officers. § 590.020, .030, and .080. When the Director files a complaint with this Commission asking us to determine there is cause for discipline, the Director bears the burden of proving by a preponderance of the evidence that the licensee committed an act for which the law gives the Director the authority to discipline the license. *See Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-230 (Mo. App. W.D. 2012) (dental licensing board demonstrated “cause” to discipline by showing preponderance of evidence). A preponderance of the evidence is evidence showing, as a whole, that “the fact to be proved [is] more probable than not.” *Id.* at 230 (*quoting State Bd. of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo. App. W.D. 2000)).

Section 590.080.1(2) provides that the Director shall have cause to discipline a licensee who “[h]as committed any criminal offense, whether or not a criminal charge has been filed[.]”

Here, the undisputed facts show that Conn, a licensed peace officer, committed and pled guilty to the crime of peace disturbance, in violation of § 574.010. His conduct falls under § 590.080.1(2). Therefore, the Director has cause to discipline Conn’s peace officer license.

Summary

We grant the Director’s motion. There is cause to discipline Conn’s license under § 590.080.1(2).

The Director shall inform us by July 19, 2013 whether he wishes to pursue the remaining grounds for discipline alleged in his complaint.

SO ORDERED on July 12, 2013.

/s/ Karen A. Winn
KAREN A. WINN
Commissioner